

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11456-RWZ

GENERAL ELECTRIC MORTGAGE INSURANCE CORPORATION

v.

CHI CHEN a/k/a CHEN HU,
a/k/a TRACY CHEN

ORDER

September 6, 2005

ZOBEL, D.J.

Ching Yee M. Tsui was named an “interested party” by plaintiff, in this suit, on a judgment against defendant, Chi Chen. She now moves for sanctions against plaintiff’s counsel under 28 U.S.C. § 1927 and Rule 11, Fed. R. Civ P.

Insofar as the motion is based on §1927, it is denied. The statute calls for sanctions against an attorney “who . . . multiplies the proceedings in any case unreasonably and vexatiously.” First, it is not clear that §1927 covers multiple actions in state and federal court, the situation here. Second, the confrontational and irritable conduct of the proceeding in this Court emanated from both sides and both contributed to multiplying and prolonging the litigation.

The matter of the trial in this Court and the last minute cancelling thereof stands on a different footing. I am persuaded that plaintiff had knowledge and opportunity to address the issues concerning the trial earlier than eleven days before its scheduled commencement. As the Court noted in its denial of a continuance, plaintiff had “failed

to establish any reasonable basis for cancelling or adjourning the . . .” hearing thus unquestionably causing the movant to incur unnecessary costs. That plaintiff chose to dismiss the case rather than proceed to trial did not help its apparently waning case, and does not help its opposition to the motion.

Although both parties have fully briefed the issues, if either wishes to file any further submissions before the Court decides the motion, he/she/it shall do so before September 17, 2005. The Court will decide on the papers.

DATE

/s/ Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE